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**Datasheet for the decision
of 30 November 2023**

Case Number: T 1937/20 - 3.5.07

Application Number: 14844269.2

Publication Number: 3044694

IPC: G06F17/00, G06F17/30

Language of the proceedings: EN

Title of invention:

DISTRIBUTED DATA SYSTEM WITH DOCUMENT MANAGEMENT AND ACCESS
CONTROL

Applicants:

Unicom Systems Inc.
Savage, Bret
Marshall, Casey
Stutchman, Geoffrey
Eltherington, Ross
Owens, Steve
Northup, George

Headword:

Document management/UNICOM SYSTEMS

Relevant legal provisions:

RPBA 2020 Art. 12(4), 12(6)

Keyword:

Sole request - Admissibility (no)

Decisions cited:

T 0134/19



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Case Number: T 1937/20 - 3.5.07

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 30 November 2023

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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 30 June 2020
refusing European patent application No.
14844269.2 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair J. Geschwind
Members: C. Barel-Faucheux
R. de Man

Summary of Facts and Submissions

- I. The appellants (applicants) appealed against the decision of the examining division refusing European patent application No. 14844269.2.
- II. The documents cited in the contested decision included the following:

D1: WO 2013/106590 A2, published on 18 July 2013
- III. The examining division decided that the subject-matter of claim 1 of the main request and the auxiliary request was not clear (Article 84 EPC) and did not fulfil the requirements of Article 123(2) EPC. It also decided that the subject-matter of claim 1 of the main request and the auxiliary request, and of the dependent claims of the main request and the auxiliary request, did not involve an inventive step over the disclosure of document D1 (Article 56 EPC).
- IV. With the statement of grounds of appeal, the appellants filed a sole request to replace the main request and the first auxiliary request. They requested that the contested decision be set aside and that a patent be granted on the basis of the sole request.
- V. In a communication accompanying a summons to oral proceedings, the board informed the appellants that it was inclined not to admit the sole request on file into the appeal proceedings, and gave its reasons for this (Article 12(6) RPBA 2020).

VI. In a letter dated 14 November 2023, the appellants, without commenting on the board's communication, informed the board that they would not attend the oral proceedings. Oral proceedings were therefore cancelled.

VII. The appellants' final requests are that the contested decision be set aside and that a patent be granted on the basis of the sole request filed with the statement of grounds of appeal.

VIII. Claim 1 of the sole request reads as follows:

"A method comprising:

coupling a platform comprising a processor and a rules engine to a plurality of databases wherein one of the databases is a policy database coupled to the rules engine and comprises one or more service policies;

forming a grid by coupling a plurality of agents to the platform, wherein each agent of the plurality of agents is an agent of the platform running on a client device and wherein the platform comprises data store indexes which index data blocks located across the grid and is configured to perform block level file transfers by moving data blocks within the grid;

generating metadata at each agent and providing the metadata to the platform instead of content, wherein the metadata corresponds to the content of memory accessible by a plurality of client devices corresponding to the plurality of agents;

using the metadata at the platform to track a location of the content and manage distributed storage, movement and processing of the content among the plurality of agents;

generating goals representing operations for maintaining a state of the content, wherein the goals

are generated by the platform using information of the metadata;

generating a plurality of tasks corresponding to the goals, wherein the plurality of tasks are generated by the platform using information of the metadata; and

assigning each task to an agent having access to content that corresponds to the task, wherein each task is a processing operation directed by the platform to be performed by an agent on content accessible by the agent and wherein each task assigned by the platform to the agent is based on the one or more service policies."

Reasons for the Decision

The application

1. The application addresses the need for a cloud service having a streamlined approach to synchronisation and access of files across multiple devices, while also focusing on local data storage and peer-to-peer transfer, as well as on security (description as published, page 2, lines 5 to 8).
2. In essence, a cloud-based platform is coupled to a system of agents or folders hosted on client devices. The platform does not store actual data but instead makes use of metadata provided by the agents to track a location of all data in the system and manage the distributed storage, movement and processing of the actual data among the agents (page 4, lines 2 to 6).

Claim 1 of the sole request - admissibility

3. The board does not admit the sole request on file, for the following reasons.

3.1 In view of the primary object of the appeal proceedings, which is to review the decision under appeal in a judicial manner, a party's appeal case shall be directed to the requests, facts, objections, arguments and evidence on which the decision under appeal was based (Article 12(2) RPBA 2020).

Any part of a party's appeal case which does not meet the requirement of Article 12(2) RPBA 2020 is to be regarded as an amendment, unless the party demonstrates that this part was admissibly raised and maintained in the proceedings leading to the decision under appeal. Any such amendment may be admitted only at the discretion of the board. The party shall clearly identify each amendment and provide reasons for submitting it in the appeal proceedings (Article 12(4) RPBA 2020).

3.2 Moreover, the board shall not admit requests, facts, objections or evidence which should have been submitted, or which were no longer maintained, in the proceedings leading to the decision under appeal, unless the circumstances of the appeal case justify their admittance (Article 12(6) RPBA 2020).

3.3 Claim 1 of the sole request differs from claim 1 of the main request that was the subject of the contested decision essentially in that:

- (1) the platform additionally comprises a "rules engine";
- (2) one of the databases is a "policy database" coupled to the rules engine and comprises one or more "service policies";
- (3) each task assigned by the platform to the agent is "based on the one or more service policies";
- (4) the block level file transfers are performed "by moving data blocks within the grid";
- (5) the data store indexes index data blocks "located across the grid" instead of "across the plurality of databases";

and in that the steps of

- (6) "identifying sensitivity of business content by extracting key terms from each file of the content and comparing the extracted terms across an organization to generate a list of company specific key terms identifying the sensitivity of the business content, and determining a confidentiality level of the business content by identifying key business terms, and analyzing syntax of the key business terms"

and of

- (7) "transferring the content corresponding to a task to the agent assigned to the task, wherein the transferring includes transferring each data block of the content to the agent assigned to the task from a location closest to the assigned agent that includes the data block based on the data store indexes of the data blocks"

have been deleted.

Hence, the sole request includes amendments of the appellants' case within the meaning of Article 12(4) RPBA 2020. The admission of the sole request into the appeal proceedings is therefore at the board's discretion.

- 3.4 In their statement of grounds of appeal, the appellants did not address the admissibility of the newly filed sole request but merely indicated that it was filed "[h]aving regard to the Examining Division comments in the Decision to Refuse the application and in an effort to expedite matters".

Hence, the appellants did not give reasons why the sole request could not have been filed earlier, i.e. in the first-instance proceedings.

- 3.5 It appears that amendment (7) has been made in response to the objection, under Article 84 EPC, to claim 1 of the main request that was the subject of the contested decision (see point 12.1 of the contested decision).

However, this objection was already present in the communication dated 29 January 2020 which was annexed to the summons to oral proceedings (see point 2.1 of that communication) and in the examining division's communication dated 27 May 2020 (see point 2.1 of that communication).

- 3.6 It also appears that amendments (6) and (7) have been made in response to an objection, under Article 123(2) EPC, to the subject-matter of claim 1 of the main request (see point 13 of the contested decision).

However, these objections were already present in the examining division's communication dated 27 May 2020 (see point 3 of the examining division's communication) and resulted from attempts to overcome earlier objections raised in the communication dated 29 January 2020 which was annexed to the summons to oral proceedings (see point 3 of that communication).

- 3.7 The board further notes that the inventive-step reasoning in relation to the subject-matter of claim 1 of the main request, presented by the examining division in points 14 and 14.1 of the contested decision, is identical to that given in points 4 and 4.1 of the examining division's communication dated 27 May 2020, and that inventive-step objections based on document D1 had already been raised in the communications of 9 August 2019 and 29 January 2020. It is not apparent to the board why features (1) to (5) could and should not have been introduced earlier, e.g. in the response to the examining division's summons to oral proceedings. The board also notes that, in their novelty and inventive-step arguments, the appellants now fully rely on the newly added features.
- 3.8 Oral proceedings before the examining division were held on 19 June 2020 in the absence of the appellants, who had announced on 17 June 2020 that they would not attend.
- 3.9 In the board's preliminary view, the sole request could and should have been filed during the examination proceedings, in particular in the response to the communication dated 27 May 2020. Furthermore, by not attending oral proceedings the appellants have waived an essential opportunity to overcome the outstanding objections (see decision T 134/19, Reasons 3.2).

3.10 Therefore, the board does not admit the sole request on file into the appeal proceedings (Article 12(4) and (6) RPBA 2020).

3.11 As there is no admissible request, it follows that the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



S. Lichtenvort

J. Geschwind

Decision electronically authenticated